

### **Remarks**

Claims 142 and 154-162 are pending. Claim 154 is objected to. Claims 155-162 stand rejected. Applicants acknowledge, with appreciation, the final Office Action's indication that subject matter of claim 142 is allowable.

### **Amendments to the Claims**

Claim 142, previously dependent on claim 128, has been amended to incorporate the recitations of claim 128, now canceled. Claim 128 supports this amendment.

Each of claims 155-157, and 160-162 has been amended to recite dependency from claim "142 or 154" in place of any one of claims "128, 135, 142, 143, 144, 145 or 154." Claims 155-157 and 160-162 support these amendments.

These amendments merely cancel claims rejected in the final Office Action and thus do not touch on the merits of the application. Because these amendments merely cancel rejected claims, they also introduce no new matter and place the application in condition for allowance. Further, none of these amendments will require further search or consideration by the Patent Office. Applicants respectfully request entry of these amendments.

Applicants make these amendments without prejudice. These amendments are not to be construed as abandonment of the previously claimed subject matter or an agreement with any objection or rejection of record.

### **Declaration of Dr. Jennifer Reed Under 37 C.F.R. § 132**

A declaration of Dr. Jennifer Reed under 37 C.F.R. § 132 accompanies this paper. The declaration should be admitted because the declaration is necessary to verify that ATCC Deposit No. PTA-5913 is entitled to the benefit of Applicants' earliest claimed priority date and is necessary to overcome an objection under 35 U.S.C. § 132(a). The declaration was not earlier presented because these issues, *i.e.*, regarding the benefit of priority of ATCC Deposit

No. PTA-5913 and the objection under 35 U.S.C. § 132(a), were first raised in the currently pending final Office Action (mailed July 25, 2006). See 37 C.F.R. § 1.116(e)

Benefit of Earliest Priority Date for “ATCC Deposit Number PTA-5913”

The final Office Action asserts that Applicants claims reciting “ATCC Deposit No. PTA-5913” will not be accorded the of benefit Applicants’ earliest claimed priority date (for U.S. provisional application serial number 60/462,259 filed April 11, 2003), unless Applicants

submit a verified statement from a person in a position to corroborate the fact that the biological material deposited April 9, 2004 is the same as the biological material identified on pages 202-203 of USSN 60/462259, filed April 11, 2003.

Final Office Action at page 3, lines 17-22. A declaration under 37 C.F.R. § 132, executed by Dr. Jennifer Reed, accompanies this response. The declaration confirms that the biological material deposited as ATCC Deposit No. PTA-5913 is the same material as that described on pages 202-203 of provisional application serial number 60/462,259. See declaration at ¶ 5.

Applicants respectfully submit that the biological material deposited as ATCC Deposit No. PTA-5913 is entitled to the benefit of priority of provisional application serial number 60/462,259.

The Objection to Figure 9B and SEQ ID NO:47<sup>1</sup> Under 35 U.S.C. § 132(a)

The final Office Action objects to Applicants’ May 1, 2006 amendment to Figure 9B and SEQ ID NO:47 under 35 U.S.C. § 132(a).

Applicants amended Figure 9B and SEQ ID NO:47 in a paper filed May 1, 2006 to correct a nucleotide sequence error. Applicants identified the support for that amendment as

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<sup>1</sup> The final Office Action initially asserts that Applicants introduced new matter in an amendment to SEQ ID NO:28, filed May 1, 2006. Final Office Action at page 3, last ¶. The final Office Action later alleges that Applicants’ introduced new matter in an amendment to SEQ ID NO:47, filed May 1, 2006. Final Office Action at page 4, first ¶. Applicants amended SEQ ID NO:47, not SEQ ID NO:28, in the amendment filed May 1, 2006. The objection will therefore only be discussed in reference to the amendment to SEQ ID NO:47.

being in ATCC deposit number PTA-5913. See Applicants remarks filed May 1, 2006 at page 14, lines 5-6. The final Office Action asserts that to prove that these amendments are supported by ATCC deposit number PTA-5913 Applicants must provide a

statement from a person in a position to corroborate the fact that the change at position 202 in figure 9B and the same change to SEQ ID NO: 47 of the sequence listing are supported by the sequence of the antibody encoded by the vector deposited as ATCC deposit No. PTA-5913.

Final Office Action at page 4, lines 2-5.

A declaration under 37 C.F.R. § 132, executed by Dr. Jennifer Reed accompanies this response. The declaration confirms that the biological material deposited as ATCC Deposit No. PTA-5913 indeed supports Applicants' May 1, 2006 amendments to Figure 9B and SEQ ID NO:47. See declaration at ¶ 7.

Applicants respectfully request withdrawal of this objection.

The Rejection of Claims 111-141, 143, 144, 146-149, 152, 153, and 155-164 Under 35 U.S.C. § 112, First Paragraph

Claims 111-141, 143, 144, 146-149, 152, 153, and 155-164 stand rejected under 35 U.S.C. § 112 first paragraph as not enabled. Claims 111-141, 143, 144, 146-149, 152, 153, 163, and 164 have been canceled. The rejection of these claims is moot. Applicants have amended claims 155-162 to obviate the rejection, *i.e.*, claims 155-162 have been amended to ultimately depend from only claims which encompass isolated antibodies the final Office Action has identified as enabled.

Applicants respectfully request that the enablement rejection be withdrawn.

The Rejection of Claims 111-141, 143, 144, 146-153, and 155-166 Under 35 U.S.C. § 112, First Paragraph

Claims 111-141, 143, 144, 146-153, and 155-166 stand rejected under 35 U.S.C. § 112, first paragraph as not adequately described. Claims 111-141, 143, 144, 146-153, and

163-166 have been canceled. The rejection of these claims is moot. Applicants have amended claims 155-162 to obviate the rejection, *i.e.*, claims 155-162 have been amended to ultimately depend from only claims which encompass isolated antibodies the final Office Action has identified as adequately described.

Applicants respectfully request withdrawal of this rejection.


The Rejection of Claim 147 Under 35 U.S.C. § 112, First Paragraph

Claim 147 has been rejected under 35 U.S.C. § 112 as containing new matter. Claim 147 has been canceled. The rejection is moot.

Applicants respectfully request withdrawal of this rejection.

Respectfully submitted,

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Michelle Holmes-Son

(47,660)

**MedImmune, Inc.**

One MedImmune Way

Gaithersburg, MD 20878

Telephone: 301-398-5765